



C.M.A.(MD).No.395 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.11.2023

Delivered on: 11.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.M.A.(MD).No.395 of 2021

and

C.M.P.(MD)No.3432 of 2021

National Insurance Company Limited,
D.No.5A, Sub Collector Officer Road,
Opp. to District Court Building,
Dindigul.

... Appellant /3rd Respondent

Vs.

1.Viyakula Saveri

P.Amalor Bhava Jeyamari (died)

2.Antony Maragatham

3.P.Francis Ganagamani

4.P.Mary Dias Kirubakaram

5.P.Joya Packiyavathi @ Packiyalakshmi

6.P.Jeyanthi

7.P.Jeyaprabakaran

... Respondents 1to 8 / Petitioners

8.J.Vinoth Kumar

9.R.Prabakaran

... 1st Respondent / 1st Petitioner



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Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 07.02.2020, made in M.C.O.P.No.182 of 2015, on the file of the Motor Accident Claims Tribunal – Chief Judicial Magistrate, Theni.

For Appellant : Mr.A.S.Mathialagan
For Respondents : Mr.S.Anand Chandrasekar
for M/s.Sarvabhbauman Associates for R1
: No appearance for R2 to R9

JUDGMENT

P.B.BALAJI,J.

The Insurance Company, aggrieved by the award in M.C.O.P. No.182 of 2015, on the file of the Motor Accident Claims Tribunal – Chief Judicial Magistrate, Theni, is the appellant before us.

2. The facts of the case in brief are as follows:

The deceased one Dr.P.Vijayakumar, who was travelling in an Innova car, sustained grievous injuries and died on the spot, in a motor accident that occurred on 13.12.2014. The claimants being his legal representatives sought for compensation of Rs.1,10,00,000/-.



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3. The appellant / Insurance Company filed a counter affidavit, resisting the said claim and stating that the deceased was the owner and not a third party and therefore, the claimants cannot seek remedy under Section 140 of the Motor Vehicles Act. That apart, the appellant / Insurance Company also disputed the claim of compensation under various heads as being highly arbitrary and excessive.

4. Before the Tribunal, the claimants 1 and 8 examined themselves as P.W.1 & P.W.4 and two other witnesses, viz. Rajathilagan and Deepak Praveenraj were examined as P.W.2 and P.W.3 and 11 documents were marked as Ex.P1 to Ex.P11 on the side of the claimants. On the side of the respondents, 2 witnesses were examined as R.W.1 and R.W.2 and 1 document was marked as Ex.R1.

5. The Tribunal found that the driver of the offending vehicle was at fault for having driven the vehicle in a rash and negligent manner and therefore, the appellant / Insurance Company was liable to pay compensation to the claimant. Insofar as the contention of the appellant that the deceased was the owner of the vehicle, the Tribunal placing



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reliance on the decision of the Hon'ble Supreme Court in ***Pushba @ Leela V. Shakunthala*** reported in ***2011-SAR(Civil)-149***, where the Hon'ble Supreme Court held that though the deceased had purchased the vehicle, the registered owner in the documents of the Transport Department continued to be the erstwhile owner's name and therefore, the Insurance Company cannot set up a plea of tortfeasor and escape from liability. The Tribunal proceeded to award a compensation of Rs.65,32,676/-.

6. Aggrieved by the said award of compensation, the appellant has preferred the present appeal, mainly challenging the finding of the Tribunal regarding the ownership of the vehicle and the liability of the appellant.

7. We do not find any challenge to the quantum of compensation awarded by the Tribunal and all the grounds raised in the Civil Miscellaneous Appeal, revolve only around the liability of the appellant citing Section 50 of the Motor Vehicles Act and the fact that the claimants themselves had admitted that the deceased had paid the entire money for purchase of car and taken possession of the same.



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8. We have heard Mr.A.S.Mathialagan, learned counsel for the appellant and Mr.S.Anand Chandrasekar, learned counsel for the first respondent. We have also gone through the oral and documentary evidence adduced before the trial Court.

9. The learned counsel for the appellant would take us through the relevant provisions of the Motor Vehicles Act, especially, Section 50 and state that the claimants cannot claim compensation before the Motor Accident Claims Tribunal, since the deceased was the owner of the vehicle and he had parted with the entire price, besides also taken physical possession of the vehicle and has been using the same.

10. Per contra, the learned counsel for the claimants would submit that as long as the vehicle's ownership was not changed in the official records in the Transport Department, the previous owner in whose name the records stand alone will be deemed to be the owner and consequently, the appellant / Insurance Company cannot wriggle out of



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their liability to pay compensation.

11. The learned counsel for the claimants would place reliance on the decision of the Hon'ble Supreme Court in *Naveen Kumar V. Vijay Kumar* reported in **2018-2-CTC-91** and the decision of the Division Bench of this Court in *The New India Assurance Co.Ltd., V. Uthra* in C.M.A.Nos.261 and 1067 of 2015, dated 16.03.2017.

12. The Hon'ble Supreme Court referring to Section 2(30) of the Motor Vehicles Act, defining 'registered owner' and also placing on Section 50 of the Motor Vehicles Act dealing with the purchaser and transfer of ownership and after analysing the various decisions of several High Courts and earlier pronouncements by the Hon'ble Supreme Court, ultimately concluded that in cases where the registered owner has purportedly transported the vehicle, but, continues to be reflected as owner in the records of the registering authority as owner of the vehicle would not be absolved of liability. The Hon'ble Supreme Court has specifically



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reiterated the principle underlying the provision of Section 2(30) of M.V. Act and that the victim of a motor accident or, in the cases of a death, the legal heirs of the deceased victim and the claimant under the claims for compensation cannot be left in a state of uncertainty. A claimant ought not to be burdened with following the trail of successive transfers, which are not registered with the registering authority.

13. The ratio laid down by the Hon'ble Supreme Court would squarely apply to the facts of the present case and we do not see any reason whatsoever not to apply the ratio laid down by the Hon'ble Supreme Court to the facts of the present case. The Tribunal has also rightly considered the fact that admittedly, the deceased had not yet registered the vehicle his name in the official records at the time of the accident and therefore, the erstwhile owner of the vehicle continued to be the registered owner for the purposes of liability and consequently, the appellant as the Insurance Company of the registered owner is liable to pay compensation.

14. We have also seen that the policy was in force and except the objections taken by the appellant / Insurance Company, no other defence is



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available to them to deny compensation sought for by the claimants. We have also gone through the award insofar as the quantum. Insofar as the award of compensation under various heads, we do not find it to be arbitrary and the same is also in line with the judgment of the Hon'ble Supreme Court as well as this Court.

15. In fine, we do not find any grounds to interfere with the award of the Tribunal. Hence, this Civil Miscellaneous Appeal is dismissed and the award, dated 07.02.2020, made in M.C.O.P.No.182 of 2015, on the file of the Motor Accident Claims Tribunal – Chief Judicial Magistrate, Theni, is hereby confirmed.

16. The appellant / Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, and costs awarded by the Tribunal, less the amount, if any already deposited, within a period of Six (6) weeks from the date of receipt of a copy of this judgment.

17. On such deposit being made, the claimants are permitted to withdraw their share amount as apportioned by the Tribunal, along with interest and costs, less the amount, if any, already withdrawn by them, after filing appropriate application before the Tribunal. There shall be no order



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as to costs. Consequently, connected Miscellaneous Petition is closed.

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(T.K.R.J.) & (P.B.B.J)
11.12.2023

Internet : Yes
Index:Yes/No
Neutral Citation:Yes/No
Ls

To

1.The Motor Accident Claims Tribunal –
Chief Judicial Magistrate,
Theni.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

Ls

judgment in
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